

3  
No. 92-202

Supreme Court, U.S.  
FILED

OCT 5 1992

OFFICE OF THE CLERK

IN THE

# Supreme Court of the United States

October Term, 1992

RANDOLPH CENTRAL SCHOOL DISTRICT,

*Petitioner,*

vs.

CORA ALDRICH,

*Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SECOND CIRCUIT

## REPLY BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

VICTOR T. FUZAK, ESQ.

*Counsel of Record*

HODGSON, RUSS, ANDREWS,

WOODS & GOODYEAR

1800 One M & T Plaza

Buffalo, New York 14203

(716) 856-4000

*Attorneys for Petitioner*

*Of Counsel:*

ANNE S. SIMET, ESQ.

KEVIN M. KEARNEY, ESQ.

Dated: October 2, 1992

**BEST AVAILABLE COPY**

IN THE  
**Supreme Court of the United States**

---

October Term, 1992

---

No. 92-202

---

RANDOLPH CENTRAL SCHOOL DISTRICT,  
*Petitioner,*

vs.

CORA ALDRICH,  
*Respondent.*

---

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

---

**REPLY BRIEF IN SUPPORT OF PETITION  
FOR A WRIT OF CERTIORARI**

---

**Respondent's diversionary emphasis on the  
particular facts of this case must not  
obscure the need for review by this Court**

Section IV of respondent's brief mischaracterizes the Second Circuit's decision as highly fact dependent, therefore presenting no important questions worthy of the court's time. The broad language and general pronouncements in the Second Circuit's opinion, see Appendix to Petition at 1a, 6a-12a, make it clear that this is not the case. The standard articulated by the Second Circuit has broad application in Equal Pay Act cases, and presents a clear conflict with the Seventh and Eighth Circuits. Respondent's desire to avoid review by this Court cannot change the wording or the import of the Second Circuit's decision in this case. Without this Court's review, uncertainty and inconsistency will mark this area of the law.

Respondent misconstrues the importance of the summary judgment posture of this case, by attempting to focus the Court solely on the facts to the exclusion of the legal standards involved. The decision of the Second Circuit, while significant for many reasons, is especially important precisely because it reversed a grant of summary judgment. To say that the Second Circuit's newly-minted standard should stand, and be applied to all cases, because the respondent here may eventually lose at trial, gainsays the substantial role that summary judgment plays in the federal system, and ignores this Court's recognition of that importance. See, e.g., *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986).

The necessity of a clear, uniform interpretation of the application of the Equal Pay Act's "any other factor other than sex" defense to state civil service systems is nowhere more manifest than on a motion for summary judgment, particularly at a time when the costs of litigation are often a financial drain equal to any damage award. Simply stated, this is an archtypical case of statutory interpretation; the particular facts, while highlighting the flaws in the Second Circuit's novel standard, are not in any way integral to the proper resolution of the issues presented by the petition.

Respondent maintains her preoccupation with specific factual circumstances in arguing that there is no conflict between the decision of the Second Circuit here and that of the Eighth Circuit in *Strecker v. Grand Forks City Social Services Board*, 640 F.2d 96 (8th Cir. 1980). Certainly the factual circumstances of the two cases differ; but on the relevant issue, *i.e.*, the interpretation of the requirements of the factor other than sex defense when applied to a state civil service system, the conflict is manifest and clear. Similarly non-persuasive is respondent's attempt to argue around the clear conflict between the job-relatedness requirement articulated by the Second Circuit and the Seventh Circuit's rule that the factor other than sex defenses need not be related to the requirements of the particular position in question, or be business related. *See Fallon v. State of Illinois*, 882 F.2d 1206, 1211 (CA 7 1989). Further, respondent's claim that the Seventh Circuit's standard does not mean what it says, *see Respondent's Brief in Opposition* at pp. 8-10, only highlights the need for this Court to provide a uniform interpretation of the statutory defense.

### CONCLUSION

For the reasons stated above, and for those reasons stated in the Petition For a Writ of Certiorari, we respectfully submit that this petition should be granted, and that a Writ of Certiorari issue to the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

VICTOR T. FUZAK, ESQ.

*Counsel of Record*

HODGSON, RUSS, ANDREWS,

WOODS & GOODYEAR

1800 One M & T Plaza

Buffalo, New York 14203

(716) 856-4000

*Attorneys for Petitioner*

*Of Counsel:*

ANNE S. SIMET, ESQ.

KEVIN M. KEARNEY, ESQ.

Dated: October 2, 1992